

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 129

HOUSE BILL 2223

AN ACT

AMENDING SECTION 32-1121, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1121, Arizona Revised Statutes, is amended to
3 read:

4 32-1121. Persons not required to be licensed; penalties

5 A. This chapter shall not be construed to apply to:

6 1. An authorized representative of the United States government, this
7 state or any county, incorporated city or town, reclamation district,
8 irrigation district or other municipality or political subdivision of this
9 state.

10 2. Trustees of an express trust that is not formed for the purpose of
11 conducting business as a contractor or officers of a court, if they are
12 acting within the terms of their trust or office.

13 3. Public utilities operating under regulation of the corporation
14 commission or construction, repair or operation incidental to discovering or
15 producing petroleum or gas, or the drilling, testing, abandoning or other
16 operation of a petroleum or gas well, if performed by an owner or lessee.

17 4. Any materialman, manufacturer or retailer furnishing finished
18 products, materials or articles of merchandise who does not install or attach
19 such items or installs or attaches such items if the total value of the sales
20 contract or transaction involving such items and the cost of the installation
21 or attachment of such items to a structure does not exceed seven hundred
22 fifty dollars including labor, materials and all other items. The
23 materialman, manufacturer or retailer shall inform the purchaser that the
24 installation may also be performed by a licensed contractor whose name and
25 address the purchaser may request.

26 5. Owners of property who improve such property or who build or
27 improve structures or appurtenances on such property and who do the work
28 themselves, with their own employees or with duly licensed contractors, if
29 the structure, group of structures or appurtenances, including the
30 improvements thereto, are intended for occupancy solely by the owner and are
31 not intended for occupancy by members of the public as the owner's employees
32 or business visitors and the structures or appurtenances are not intended for
33 sale or for rent. In all actions brought under this chapter, proof of the
34 sale or rent or the offering for sale or rent of any such structure by the
35 owner-builder within one year after completion or issuance of a certificate
36 of occupancy is prima facie evidence that such project was undertaken for the
37 purpose of sale or rent. As used in this paragraph "sale" or "rent" includes
38 any arrangement by which the owner receives compensation in money,
39 provisions, chattels or labor from the occupancy or the transfer of the
40 property or the structures on the property.

41 6. Owners of property who are acting as developers and who build
42 structures or appurtenances to structures on their property for the purpose
43 of sale or rent and who contract for such a project with a general contractor
44 licensed pursuant to this chapter and owners of property who are acting as
45 developers, who improve structures or appurtenances to structures on their

1 property for the purpose of sale or rent and who contract for such a project
2 with a general contractor or specialty contractors licensed pursuant to this
3 chapter. To qualify for the exemption under this paragraph, the licensed
4 contractors' names and license numbers shall be included in all sales
5 documents.

6 7. Architects or engineers WHO ARE engaging in their professional
7 practice as defined in chapter 1 of this title, ~~provided they do not engage~~
8 ~~in the activity of a contractor as defined in sections 32-1101 and 32-1102.~~
9 AND WHO HIRE OR OFFER TO HIRE THE SERVICES OF A CONTRACTOR FOR
10 PRECONSTRUCTION ACTIVITIES RELATING TO INVESTIGATION AND DISCOVERY INCLUDING:

11 (a) SUBSURFACE UTILITY LOCATION AND DESIGNATION SERVICES.

12 (b) POTHOLING.

13 (c) DRILLING FOR ANY OF THE FOLLOWING:

14 (i) SOIL SAMPLES.

15 (ii) ROCK SAMPLES.

16 (iii) PAVEMENT SAMPLES.

17 (d) LOCATING EXISTING FEATURES OF A BUILDING OR STRUCTURE INCLUDING
18 EXISTING ELECTRICAL, MECHANICAL, PLUMBING AND STRUCTURAL MEMBERS.

19 8. A person licensed, certified or registered pursuant to chapter 22
20 of this title or a person working under the direct supervision of a person
21 certified or qualified pursuant to chapter 22 of this title to the extent he
22 THE PERSON is engaged in structural pest control.

23 9. The sale or installation of finished products, materials or
24 articles of merchandise which are not fabricated into and do not become a
25 permanent fixed part of the structure. This exemption does not apply if a
26 local building permit is required, if the total price of the finished
27 product, material or article of merchandise including labor is more than
28 seven hundred fifty dollars or if the removal of the finished product,
29 material or article of merchandise causes damage to the structure or renders
30 the structure unfit for its intended use.

31 10. Employees of the owners of condominiums, townhouses, cooperative
32 units or apartment complexes of four units or less or the owners' management
33 agent or employees of the management agent repairing or maintaining
34 structures owned by them.

35 11. Any person who engages in the activities regulated by this chapter,
36 as an employee of an exempt property owner or as an employee with wages as
37 his THE PERSON'S sole compensation.

38 12. A surety company or companies which are authorized to transact
39 business in this state and which undertake to complete a contract on which
40 they issued a performance or completion bond, provided all construction work
41 is performed by duly licensed contractors.

42 13. Insurance companies which are authorized to transact business in
43 this state and which undertake to perform repairs resulting from casualty
44 losses pursuant to the provisions of a policy, provided all construction work
45 is performed by duly licensed contractors.

1 14. Any person other than a licensed contractor engaging in any work or
2 operation on one undertaking or project by one or more contracts, for which
3 the aggregate contract price, including labor, materials and all other items,
4 is less than seven hundred fifty dollars. The work or operations which are
5 exempt under this paragraph shall be of a casual or minor nature. This
6 exemption does not apply:

7 (a) In any case in which the performance of the work requires a local
8 building permit.

9 (b) In any case in which the work or construction is only a part of a
10 larger or major operation, whether undertaken by the same or a different
11 contractor, or in which a division of the operation is made in contracts of
12 amounts less than seven hundred fifty dollars for the purpose of evasion of
13 this chapter or otherwise.

14 (c) To a person who utilizes any form of advertising to the public in
15 which ~~his~~ THE PERSON'S unlicensed status is not disclosed by including the
16 words "not a licensed contractor" in the advertisement.

17 15. A person who is licensed, certified or registered pursuant to
18 title 41, chapter 16 and who is not otherwise required to be licensed under
19 this chapter or an employee of such person.

20 16. A person who functions as a gardener by performing lawn, garden,
21 shrub and tree maintenance.

22 B. A person who is licensed to perform work in a particular trade
23 pursuant to ~~the provisions of~~ this chapter shall not be required to obtain
24 and maintain a separate license for mechanical or structural service work
25 performed within the scope of such trade by such person.

26 C. Any person who does not have an exemption from licensure pursuant
27 to subsection A, paragraph 14, subdivision (c) of this section is subject to
28 prosecution for a violation of section 44-1522. The attorney general may
29 investigate the act or practice and take appropriate action pursuant to title
30 44, chapter 10, article 7.

APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

Passed the House February 7, 2005

Passed the Senate April 12, 2005

by the following vote: 45 Ayes,

by the following vote: 30 Ayes,

13 Nays, 2 Not Voting

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Forrest L. Moore
Chief Clerk of the House

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of April, 2005

at 12:00 o'clock P. M.

Wendell Uparra
Secretary to the Governor

Approved this 18 day of

April, 2005

at 1:45 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2005

at 4:40 o'clock P. M.

Prince K. Brewer
Secretary of State

H.B. 2223